

1909-062 Chancery Causes Grant Sargeant vs. Timothy Boggs & wife
Lee Co.

CH-Debt
T-Property

-Deed

=====	#	
Grant Sargeant, Complainant,	#	
	#	
Vs.	#	Bill.
	#	
Timothy & Polly Ann Boggs, Defendants.	#	
=====	#	

To the Hon.H.A.W.Skeen,Judge of the Circuit Court for Lee Co.

Your complainant, Grant Sargeant, respectfully represents unto your honor that on the 11 day of December, 1907, he sold and conveyed to Timothy Boggs and Polly Ann Boggs, a certain tract or parcel of land, lying and being in Lee County, Virginia, in the Poor Valley country, north of the town of Dryden; a copy of his deed made to the said Boggses is here filed, marked "A" and paryaed to be taken as a part of this bill; that the said Timothy Boggs and Polly Ann Boggs were to pay your orator the sum of \$300.00 for said tract of land; that they paid down on the purchase price thereof, the sum of \$140.00, and the said Timothy Booggs executed his note for \$160.00, the residue of the purchase price thereof; that at the time your complainant made his said deed to the said Boggses, it was agreed and understood that your complainant should have a vendor's lien upon said land, and the same should be reserved in the face of his said deed, but as will be seen from an inspection of said copy of said deed, there is no vendor's lien reserved in the face thereof. Your complainant alleges that the omission of a vendor's lien being reserved in the face of said deed was an oversight and mutual mistake; he alleges it should have been in the body of said deed. Your orator is an illiterate man, not able to read and write with any degree of accuracy, and so being, he and the said Boggses got Squire Lee of Wise County, Virginia to write the deed aforesaid, and directed him to so prepare it, as that your orator would have a vendor's lien upon the said land, and he did prepare the said deed, and assured your orator, that a lien was reserved therein for the said deferred purchase money thereon, and thereupon your orator and

his wife Manda Sargeant signed, acknowledged and delivered said deed to the said Bogges, believing that he had a vendor's lien in and upon the said land to secure to him, the said \$160.00, the balance of the purchase price thereof, and he did not know but what he had a lien reserved in the face of said deed until after the said ~~and~~ \$160.00 became due, and he placed the matter in the hands of his attorney for collection, and thereafter his attorney informed your orator that the deed which he and his wife made to the said Boggses did not on its face retain a vendor's lien.

Your orator alleges and charges that it was the agreement between himself and the said Boggses, he should have a ^{Vendor's} lien upon the said land for the said balance of the purchase price thereof; that the same should be so lawfully expressed in their said deed to the said Boggses; that by a mistake of the said Lee in the preparation of the said deed, and which was not discovered by your orator until the time aforesaid, it was left out of the draft of the said deed, that a lien was reserved ~~the~~ on the land therein conveyed to secure to your orator the payment of the said \$160.00, and its interest.

The premises aforesaid considered, your orator is advised that he is entitled to have the said deed of himself and wife to the said Boggses reformed, and declared to have a vendor's lien in and upon the said land, so conveyed to him for the said \$160.00, and to that end he prays.

Although, the foregoing being facts, but fearing that he might not be able to clearly sustain the foregoing allegations, on the advice of counsel, your orator brought an action at law against the said Timothy Boggs on said \$160.00, and at the May Term, 1909, obtained a judgement against him for the same, with interest thereon from the 14th day of December, 1907, till paid, subject to a credit of \$32.00 paid Feb., 5th, 1909, ^{and costs amounting to the sum of \$} A certified copy of which judgement is here filed as a

part of this bill, marked exhibit "B". That a writ of fieri facias was issued upon the said judgment, directed to the

~~XXXXXXXXXXXX~~ sheriff of Lee County, and that the said writ was placed in the hands of the said sheriff, and was on the _____ day of July, 1909, returned "Not executed; no property found"; that the said judgment and every part thereof is still due, owing and unpaid to your orator.

In consideration of the foregoing, and inasmuch as your orator is remediless in the premises, save in a court of equity, your orator prays that the said Timothy Boggs and Polly Ann Boggs be made parties defendants to this bill; that they be required to answer the same, but they need not do so on oath, as that is waived; that your orator be decreed to have his said deed to the said Boggses reformed and he be declared to have a vendor's lien in and upon the said land mentioned in said deed, exhibit "A" for the said \$160.00, with interest thereon from the 14th day of December, 1907, till paid, and the costs of this suit; that a proper decree go down directing a sale of the said land, or enough thereof to pay him his said debt. But if he should be mistaken in that he has a vendor's lien upon said land, then in that case, he be declared to have a judgment lien upon the same for his said judgment as shown in exhibit "B"; and since the rents and profits will not in five years pay the same, said land, or enough thereof be sold to pay said judgment and the costs of this suit. And that your orator be awarded all other further and general relief, as the nature of his said cause may require. And he will ever pray, etc.

Huntington Bros. P.Q.

This Deed made and entered into on this the 11th day of Dec. 1907 by and between Grant Seargent and Manda Seargent his wife parties of the first part and Timoth Boggs and Polly An his wife parties of the second part all of the county of Lee Virginia witnesseth that for and in consideration of the sum of three hundred dollars \$300¹⁰⁰~~200~~ cash in hand paid for which the receipt of payment is hereby acknowledged the parties of the first part do bargain grant sell and convey and do by these presents sell and convey with covenants of General warranty the following tract parcel or piece of land situated in the county of Lee and state of Virginia and which is known as the Poor valley and being the same peice of land conveyed to Grant Seargent parties of the first part G. J. S. Parsons and Bounded and described as follows to wit (Begining at a large chestnut oak and black Gum on the top of Poor Valley Ridge thence North 25 W 206 poles to Hickory thence north 25 W 94 poles to a stake on top of stone Mountain thence North 66 E 30 poles to a stake thence South 25 E 100 poles to a pine thence south 25 E 200 poles to three chestnuts sprouts thence south 85 W 33 poles to the Begining the same being sixty be the same more or less) it being the same peice or parcel of land laid off and assigned by commissioners to J. S. Parsons to have and to hold said land unto themselves and heirs forever together with all the appurtenences there unto belonging and will warrant the peaceable and quiet possession of the same as witness the following signatures and seals day and year first above written.

Grant Sergent	(Seal)
her	
Manda x Sargent	(Seal)
mark	

State of Virginia county of Wise to wit

I A. M. Lea a justice of the peace in and for the county afore-said do here by certify that Grant Seargent and Manda Seargent his wife whose names are signed to the writeing here unto annexed bearing date on the 11th day of December 1907 personally

appeared before me in my county aforesaid and acknowledged
the same to be their act and deed given under my hand this the
11th day of Decr 1907

A. M. Lea J. P.

Virginia, Lee County, to-wit:

In the Clerk's office of Lee County, on this the 14th day
of December, 1907, this deed was presented, and together with
the certificate annexed, admitted to record.

Teste: H.C.T. Ewing. Clerk.

Virginia, Lee County, to-wit:

I, J. A. G. Hyatt, Deputy for H. C. T. Ewing, Clerk of the
Circuit Court in and for the county and state aforesaid, do
hereby certify that the foregoing is a true and perfect^{copy} of a
deed from Grant Sargent and wife to Timoth Boggs and wife, as
the same appears of record in my office in deed book No. 46,
page 424.

Given under my hand, on this the 20th day of July, 1909.

Teste: J. A. G. Hyatt, D Clerk.

for H.C.T. Ewing clerk

Fee 50¢

Virginia,

At a Circuit Court continued and held for Lee County, at the Court-house thereofon, on Wednesday, the 12th day of May, 1909.

Grant Sargeant,

Plaintiff

vs. Declaration in Debt.

Timothy Boggs.

Defendant.

The defendant not appearing after being duly summoned, it is considered by the Court that the Judgment obtained in the Clerk's office of this Court, in favor of the plaintiff against the defendant for the sum of (\$160.00), One Hundred and Sixty dollars, the amount in the declaration mentioned, waiving the benefit of the homestead and all other exemptions, with interest thereon from the 14th day of December, 1907, till paid, and the costs be made final, Credit by \$32.00 paid Feb. 5th, 1909

Virginia, Lee County, to-wit:

I, J. A. G. Hyatt, Deputy for H. C. T. Ewing, Clerk of the Circuit Court in and for the county and state aforesaid, do hereby certify that the foregoing is a true and perfect copy of a judgment rendered by the court in the cause of Grant Sargeant vs. Timothy Boggs, as the same appears of record in my office, in Common Law Order Book No. 7, page 208.

Given under my hand, on this the 20th day of July, 1909.

Teste: *J. A. G. Hyatt*, Clerk.

H. C. T. Ewing Clerk

Free 30¢

Sold to Grant
D. N. Grant 11/13/09
for \$190.35.
E. H. P.
Couns

Grant Sargeant

vs } Bill

Timothy Bagge et al

Filed July 24th 1909

J. A. Hyatt D. C.

1st August Rules 1909

Spec. executed & D. N.

2nd August Rules 1909.

D. N. confirmed & Cause
set for hearing.

Costs:

Clerk \$4.71

Tax 1.50

Shff. 1.00

Atty. 15.00

Estimated 5.00

\$27.41

===== #
Grant Sargant, Complainant. #
vs. # In Chancery.
Timothy Boggs, et al, Defendants. #
===== #

This cause came on this the _____ day of December, 1909, to be further heard upon the papers formerly read herein and the report of Commissioner E. W. Pennington filed herein on the _____ day of November, 1909, and was argued by counsel.

On consideration of all which, and for reasons appearing to the Court, and said report of said sale being unaccepted to it is hereby adjudged, ordered and decreed that said report and sale of said land to the said Grant Sargant be, and the same are hereby approved and confirmed.

And it is further adjudged, ordered and decreed that E. W. Pennington, who is hereby appointed a Special Commissioner for the purpose, will make a good and sufficient deed to the said Grant Sargant to the said lands with covenants of special warranty, and he having made such a deed, it is further adjudged, ordered and decreed that said deed be and the same is hereby confirmed; and for the services of said E. W. Pennington in making to said Sargant said deed, said Sargant will pay to him the sum of (\$5.00) five dollars.

And it is further adjudged, ordered and decreed that the said Pennington will pay to those entitled the said sum of (\$36.47) thirty-six dollars and forty-seven cents which was paid to him by said Sargant on the costs of this suit and commissions of sale. And he having paid the same out to those entitled and there being nothing further to be done in this cause, it is ordered that this cause be and the same is stricken from the docket.

Grant Sargeant

vs } Decree
final

Timothy Baggs

Entered in Coll.
B. No. 1, page 547

Enter this

Dec 6 1909

H. W. B. B. B.

Grant Sargeant, Complainant,

Vs.

Timothy & Polly Ann Boggs, Defts.

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In Chancery.

This cause came on this day to be heard upon the bill of the complainant, and exhibits filed therewith; and it appearing that each of the said defendants have been duly served with process herein for more than fifteen days before the first day of this term of this court, and they failing to appear, plead, and answer or demur to the said complainant's said bill, on motion of the said complainant, by his counsel, said bill is taken for confessed as to the said defendants. And thereupon this cause came on to be heard upon the said bill, ~~and~~ ^{and exhibits of said} complainant, and for reasons appearing to the court, it is adjudged, ordered and decreed that said complainant has a vendor's lien in and upon the lands mentioned in exhibit "A" filed with said complainant's bill for the sum of \$168.73, with legal interest on \$160.00 ~~thereof~~ ^{thereof} from the 14th day of December, 1907, till paid, subject to a credit of \$32.00, paid on said \$160.00, on the 5th day of February, 1909; and that the deed of said complainant and wife to the said defendants, dated the 11th day of December, 1907, ~~and~~ ^{and} a certified copy of which is filed with said bill, marked exhibit "A", be and the same is hereby ~~reformed~~ ^{reformed} to the extent of giving the said complainant a vendor's lien in and upon the ^{whole of the} lands mentioned in said deed, because it appears to the court that it was a mutual mistake in the preparation of said deed, that a vendor's lien for the said sum of \$160.00, was inadvertently, ^{and by mistake} left out of said deed, when it was intended by the parties thereto that such a lien should ^{have} been reserved in the face of the said deed, to secure the payment of said sum.

And it is further adjudged, ordered and decreed, that said Complainant, recover from the said defendants, the sum of \$168.73 on \$160.00 with legal interest, thereof from the 14th day of December, 1907,

subject to \$32⁰⁰ and dit, as of Feb. 5th 1909
till paid, and the costs of this suit. And if the said sum

of money, its interest and costs of this suit be not paid to
within thirty days from this date,
the said complainant, then and in that case, E.W. Pennington,

who is hereby appointed a special commissioner for the pur-
pose, will after advertising the time, ~~and~~ terms and place of

sale for thirty days, at three or more public places in this

county, by posting written or printed notices, one of which

shall be posted at the front door of the courthouse of this

county, one in the neighborhood of said land, one at Penning-

ton Gap, and at such other places as he may deem proper, at

the front door of the courthouse, ^{of this court} offer for sale at public

outcry, to the highest and best bidder, said land mentioned

in exhibit "A", or enough thereof to pay said debt, its in-

terest, costs of this suit and commissions of sale, on a cred-

it of six and twelve months time, except a sum sufficient

to pay the costs of this suit and the commissions of sale,

he will require the purchaser to pay down; and for the de-

ferred payments he will take notes payable to himself, bearing

interest from the date of such sale, and with good personal

security thereon. ~~But~~ he will, before executing the terms

of this decree, enter into a bond in the penal sum of \$300.00

conditioned as the law requires in such cases before the clerk

of this court. And he will report his action to the court.

And this cause is continued.

Grant Sargent

vs. } Deane

Timothy Boggs et al
Entered in C.O.B.
8, page 503 re.

Enter this Sept
10th 1909

H. A. W. Sturges
Judge

Sept 10th 1909

=====#
Grant Sargent, Complainant, #
vs. # In Chancery.
Timothy Boggs, et al, Defendants. #
=====#

To the Hon. H. A. W. Skeen, Judge of the Circuit Court for Lee County.

Your undersigned, who was on the 10th day of September, 1909, appointed a ~~Sxx~~ Special Commissioner in said cause, begs leave to report, that after having duly advertised the time, terms and place of sale in the manner required by said decree, on the 13th day of November, 1909, at the front door of the Court House of this County, he offered the land in the bill and proceedings mentioned, or enough thereof to pay said complainant's debt and the costs of this suit, for sale to the highest and best bidder. After announcing the terms of the sale of the lands mentioned in this cause, and after striving to get bidders therefor, your commissioner knocked down the sale of the lands in the bill and proceedings mentioned to the said Grant Sargent, who was the highest, best and last bidder for the same, for the sum of (\$190.35) one hundred and ninety dollars and thirty-five cents. This sum was just enough to pay the said complainant's debt and the costs of this suit and commissions of sale. Said Grant Sargent paid to your Commissioner on the costs and commissions in this suit the sum of (\$36.47) thirty-six dollars and forty-seven cents. As the debt for which this land was being sold was due and owing to the said complainant your commissioner did not deem it neccessary, nor require the said Sargent to give notes for the unpaid part of his bid.

Your Commissioner is not acquainted with the lands sold, but has been told that it was a very poor tract of land and

that it has probably brought as much as it can ever be sold for again. He therefore recommends a confirmation of this sale to the said Grant Sargent.

All of which is respectfully submitted, this the 17th day of November, 1909.

E. L. Birmingham Commissioner.

Grant Sargeant
vs } Report of
Sale

Timothy Boggs

Filed Nov. 19, 1909.

H. A. Ewing,
clerk

Grant Sargent

vs.

Nemothy Boggs et al
note Int. from 12/14/07
Int to 2/5/09
lev. 2/5/09
Int to 11/13/09
Costs at Law
Costs of Chancery Suit
Comm. on \$181. 27
Fees

160 00

10 90

170 90

32 00

138 90

6 25

145 15

8 72

27 41

181 29

9 86

190 35

145 15

45 20

27 41

9 06

36 47

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon

*Timothy Boggs and
Polly Ann Boggs*

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court, on
the *1st* Monday in *August* 190*9*, to answer a bill in chancery exhibited against *them*

in our said Court by Grant Sargeant

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the *24th*
day of *July*, 190*9*, and 1*34* year of the Commonwealth.

A Copy, Teste:

_____, Clerk

H. C. T. Ewing
Clerk
By J. H. Hyatt D C

Executed on the 30th day of July, 1909 by
 delivering to Polly Ann Boggs a copy of the
 within summons for herself; and the said Timothy
 Boggs not being found at his usual place of
 abode, I further executed the within summons as
 to said Timothy Boggs by delivering a true copy
 on July, 30th 1909 at the usual place of abode
 of the same to Polly Ann Boggs, the wife
 of said Timothy Boggs and explained to her the
 meaning and purport of said summons

G. W. Sage S.D. for
 W. J. Tucker, L.L.C.

Grant Sargeant

SUBPOENA
 IN
 CHANCERY

VS

Timothy Boggs

Pennington Prov. p. q.

To 1st August Rules
 Lee Circuit Court

Executed by delivering
 a copy of the within summons to
 Tim Boggs wife he not being
 at home this July 30th 1909
 G. W. Sage S.D. for
 W. J. Tucker L.L.C.